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EXAMINER	
BASOM, BLAINE T	

ART UNIT	PAPER NUMBER
2173	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/000,150	BARRETT ET AL.	
	Examiner	Art Unit	
	Blaine Basom	2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 August 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-44* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-44* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 October 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

The Examiner acknowledges the Applicants' amendments to claims 1, 11, 16-18, 20-21, 27-32, and 42, and the Applicants' addition of new claims 43 and 44. The amendments to these claims generally involve performing claimed method steps at a "computing system." The Applicants note that Hendricks (U.S. Patent No. 6,201,536 to Hendricks et al.), presented in the previous Office Action, teaches an NVOD system that provides staggered start times for a program, but that the selection of video programs to display and any intervening content between programs is controlled by a centralized headend, and not by a subscriber or a set top terminal. The Applicants further note that Imajima (U.S. Patent No. 6,211,901 to Imajima et al.), presented in the previous Office Action, similarly includes a centralized CATV system that determines what video content and content before the video content will be displayed. Based on these observations, the Applicants subsequently assert that Hendricks and Imajima, in addition to any of the other references cited in the previous Office Action, fail to teach claimed elements directed towards determining "at the computing system" that a video advertisement is not available, and elements directed toward identifying and displaying "at the computing system" banner advertisements until a real-time video advertisement is available, as added by amendment. Accordingly the Applicants, in their arguments, appear to analogize the claimed computing system with a single end-user device, such as for example, the set top terminal described by Hendricks. In response, the Examiner respectfully notes that a "computing system," given its broadest most reasonable interpretation, need not encompass only a single end device (e.g. the set top terminal of Hendricks), but may comprise a plurality of interacting

devices. That is, the headend, the operations center, and the one or more set top terminals described by Hendricks may be considered components of a system, e.g. a "computing system." Therefore, as described more fully below, Hendricks and Imajima are considered to teach claimed elements directed towards determining at a computing system, or more specifically at particular components of a computing system, that a video advertisement is not available, and are considered to teach elements directed toward identifying and displaying, at particular components of the computing system, banner advertisements until a real-time video advertisement is available.

The Applicants' arguments have thus been fully considered, but are not persuasive.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 5-10, and 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over "near video on demand" (NVOD), as described by U.S. Patent No. 6,201,536 to Hendricks et al. (hereinafter referred to as "Hendricks") and U.S. Patent No. 6,211,901 to Imajima et al. (hereinafter referred to as "Imajima"). In general, NVOD is a service for providing a specific television program in response to a request from a television viewer. It is understood that the

content of such a video program is arbitrary and may thus comprise, for example, advertisements or other promotional information.

Specifically regarding claim 1, Hendricks discloses that NVOD entails transmitting a television program simultaneously over multiple channels, whereby the program has staggered start times over the channels (for example, see column 34, lines 30-59). In response to selecting the particular program, the next available and nearest start time of the program is determined, and the channel displaying the program at this start time is made available to the viewer (for example, see column 34, lines 30-59). Hendricks further discloses that NVOD is implemented within a system comprising a "cable headend," an "operations center," and one or more "set top terminals," whereby the "cable headend" receives and processes television program streams and associated control information transmitted from an "operations center", and in response to requests from one or more set-top terminals, sends the received television program streams over transmission media to the requesting set-top terminals for display (for example, see column 6, line 26 – column 7, line 57). Such a system comprising a cable headend, operations center, set-top terminals, and associated transmission media is considered a "computing system" like recited in the claimed invention. Thus, Hendricks is considered to teach: receiving at a computing system one or more video streams, each on a distinct channel, which contain a plurality of real-time video programs from a video provider, e.g. an operations center, whereby the programs are to begin at a plurality of distinct times; generating at the computing system, and on a display device, a display screen having a region in which one or more real-time video programs are to be displayed; determining at the computing system that a begin time for a current real-time video program has passed, i.e. determining that only a tail end of a current real-time video program

contained within the one or more video streams is available; determining at the computing system that a next real-time video programs is not yet available for display based on content received from the video provider, in that a begin time for the next real-time video program has not yet been reached; and, at the begin time of the next real-time video program, displaying the video program at the computing system. As described above, such real-time video programs may be video advertisements. Hendricks, however, does not explicitly disclose that a banner advertisement, having subject matter related to that of the video program, e.g. advertisement, is displayed at the computing system while waiting for the video program, as is recited in claim 1.

Nevertheless Imajima teaches, while waiting for the start time of an NVOD program, displaying a message indicating the amount of time remaining until the start time, in addition to a "service screen" displaying promotions related to the selected NVOD program (see column 17, line 31 – column 18, line 17: note that the service screen introduces "latest movies," a category from which the user selected the NVOD program). Such content is considered a banner advertisement having subject matter related to the selected NVOD program, and accordingly, Imajima teaches: identifying at a computing system a banner advertisement having subject matter that is related to the selected NVOD program; while waiting for the begin time of the selected NVOD program, displaying the banner advertisement at the computing system; determining at the computing system that the NVOD program is available for display, in that the begin time for the NVOD program has been reached; and, at the begin time of the NVOD program, replacing at the computing system the banner advertisement with the NVOD program.

It would have been obvious to one of ordinary skill in the art, having the teachings of Hendricks and Imajima at the time the invention was made, to modify the computing system

taught by Hendricks to identify and display banner advertisements while waiting for the start time of an NVOD program, as taught by Imajima. It would have been advantageous to one of ordinary skill to utilize this combination, because the period of time while waiting for an NVOD program is a beneficial occasion for presenting information to the user, as is demonstrated by Imajima.

Regarding claims 5-6, Imajima teaches, while waiting for the start time of an NVOD program, displaying a message indicating the amount of time remaining until the start time, in addition to a "service screen" displaying promotions related to the selected NVOD program, as is described above. Such content is considered a banner advertisement having subject matter *related* to the selected NVOD program (for example, see column 17, line 31 – column 18, line 17: note that the service screen introduces "latest movies," a category from which the user selected the NVOD program). As the banner advertisement is related to the NVOD program, it is understood that it is selected from plurality of possible banner advertisements, which as known in the art, may be deliverable upon different streams and stored locally.

Concerning claims 7-8, Hendricks discloses that NVOD entails transmitting a program simultaneously on multiple channels, whereby the program has staggered start times over the channels, as is described above. In response to selecting a particular program, the next available and nearest start time of the program is determined, and the channel displaying the program at this start time is made available to the viewer, as is further described above. Accordingly it is understood that the NVOD program, which may be an advertisement, is selected from a plurality of NVOD programs, at least two of which are deliverable upon different delivery streams, and

whereby the video program is selected based upon the prior viewing activities of the viewer, particularly the time in which the user selected to the program to watch.

As per claim 9, Imajima teaches, while waiting for the start time of an NVOD program, displaying a message indicating the amount of time remaining until the start time and related promotions, as is described above. Consequently, the video stream comprising the NVOD program is understood to comprise at least one trigger, which may be analyzed to identify the start time when the video program is be displayed and the subject matter of the program.

In reference to claim 10, Hendricks and Imajima teach: identifying a video program, which may be an advertisement, to be displayed; identifying the subject matter of the video program; selecting a banner advertisement having subject matter that is related to the subject matter of the video program from a plurality of banner advertisements; and displaying the banner advertisement, as is described above. It is understood to that such teachings may be implemented to select another NVOD program, i.e. a next NVOD program.

With respect to claims 43-44, Hendricks discloses that the above-described computing system, specifically the cable headend of the computing system, may store a video program after receiving the video program within a stream from a video provider, i.e. operations center (for example, see column 8, line 30 – column 9, line 57). The cable headend may then deliver such programs, understandably via a video stream, to one or more requesting set top terminals for display (see column 9, line 58 – column 10, line 17), and whereby as described above, the delivered video program may replace a banner advertisement previously displayed at each of the set top terminals. Accordingly, Hendricks and Imajima are further considered to teach replacing at the computing system (i.e. at the set top terminals of the computing system) the banner

advertisement with a real-time video program by replacing the banner advertisement with stored video, which was stored after being received from the video provider, and by replacing the banner advertisement with a video program as it is delivered via one or more data streams, as is expressed in claims 43 and 44. As further described above, such video programs may comprise advertisements.

Claim 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Hendricks and Imajima, which is described above, and also over U.S. Patent No. 6,687,906, which is attributed to Yuen et al. (and hereafter referred to as "Yuen"). As described above, Hendricks and Imajima present a method like that of claim 1, whereby a television program is displayed on a display screen, and whereby a banner advertisement is displayed while waiting for the television program to begin. Neither Hendricks nor Imajima, however, explicitly teach that the display screen comprises an electronic programming guide or a background region, whereby either the banner advertisement or another advertisement is displayed in the background region, as is recited in claims 2-4. Nevertheless, electronic program guides are well known in the art. For example, Yuen presents an electronic program guide which displays a currently selected video program, like the NVOD program of Hendricks and Imajima, and which comprises a background region comprising one or more banner advertisements (for example, see figure 2). Accordingly, it would have been obvious to one of ordinary skill in the art, having the teachings of Hendricks, Imajima, and Yuen at the time the invention was made, to modify the NVOD interface taught by Hendricks and Imajima, such that a currently selected NVOD program can be displayed within an electronic program guide, like that of Yuen. It would have

been advantageous to one of ordinary skill to utilize this combination, because such an electronic program guide allows the user to search for other programs while watching a current program, thus creating a more desirable interface, as is taught by Yuen.

Claims 11, 14-24, 27-35, and 38-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Hendricks and Imajima, which is described above, and also over U.S. Patent No. 6,728,776, which is attributed to Colbath. Regarding claim 11, the NVOD system of Hendricks and Imajima involves simultaneously transmitting a video program on multiple channels, whereby as described above, the program has staggered start times over the channels. It is understood that the content of such a program is arbitrary and may thus comprise, for example, advertisements or other promotional information. As described above, Imajima further teaches, while waiting for the start time of the video program, displaying a message indicating the amount of time remaining until the start time, in addition to a "service screen" displaying promotions related to the selected program. Such content is considered a banner advertisement having subject matter related to the selected program. At the start time of the video program, the video program is displayed. Moreover, Hendricks further discloses that NVOD may be implemented within a system comprising a "cable headend," an "operations center," and one or more "set top terminals," whereby the "cable headend" receives and processes television program streams and associated control information transmitted from an "operations center", and in response to requests from one or more set-top terminals, sends the received television program streams over transmission media to the requesting set-top terminals for display (for example, see column 6, line 26 – column 7, line 57). Such a system comprising a

cable headend, operations center, set-top terminals, and associated transmission media is considered a "computing system" like recited in the claimed invention. Accordingly, Hendricks and Imajima teach: receiving at a computing system one or more video streams from a video provider (e.g. an operations center) containing a plurality of video programs, whereby such programs may comprise advertisements; receiving at the computing system (e.g. at the cable headend of the computing system) at least one trigger from a first video stream communicating with the processor, the at least one trigger defining a begin time when a first video program in the first video stream is to be displayed, on a display device, within a region of a display screen; identifying at the computing system (i.e. at the cable headend of the computing system) a first banner advertisement having subject matter that is related to that of the first video program; displaying at the computing system (i.e. at a set top terminal of the computing system) the first banner advertisement within the region of the display device; analyzing at the computing system (e.g. at the cable headend of the computing system) the at least one trigger to identify the begin time when the first video program is to be displayed; determining at the computing system (e.g. at the cable headend) that the begin time when the first video program is to be displayed has been reached; and upon determining that the begin time has been reached, transitioning at the computing system (i.e. the set top terminal of the computing system) between the first banner advertisement and the first video program to display the first video program within the region. Neither Hendricks nor Imajima, however, explicitly teach determining if the video program is available for display before transitioning to the video program, like expressed in claim 11.

Like Hendricks and Imajima, Colbath discusses the transmission of video programs, particularly over networks such as the Internet (for example, see column 1, lines 10-52). Colbath

teaches that in such environments, there generally exists a waiting period before enough of the video program can be received before it can be displayed (for example, see column 1, lines 10-52; column 2, lines 9-36; and column 3, line 33 – column 4, line 18). To accommodate for such waiting periods, Colbath presents an "information handling system," considered a computing system, which displays an alternative set of data, such as a related advertisement, during this waiting period (for example, see column 1, lines 10-52; column 2, lines 9-36; and column 3, line 33 – column 4, line 18). Accordingly, Colbath is considered to teach: receiving at a computing system one or more video streams containing a plurality of video programs; determining at the computing system that a first video program is not yet available for display; identifying at the computing system a first banner advertisement having subject matter that is related to that of the first video program; displaying at the computing system the banner advertisement within an advertisement region of a display device; determining at the computing system that the first video program is available for display; and upon determining that that the first video program is available for display, transitioning at the computing system between the first banner advertisement and the first video program to display the first video program within the advertisement region.

It would have been obvious to one of ordinary skill in the art, having the teachings of Hendricks, Imajima and Colbath at the time the invention was made, to modify the NVOD system taught by Hendricks and Imajima so that it may also be implemented over networks, such as the Internet, and thus so that any video programs transmitted by the NVOD system are determined to be available before they are displayed, as taught by Colbath. It would have been advantageous to one of ordinary skill to implement the NVOD system of Hendricks and Imajima

in a network environment such as the Internet, because the NVOD system would be available to more users, particularly Internet users, as is taught by Colbath.

Regarding claim 21, Colbath teaches that the above-described system may be implemented using a computer program, stored on a computer readable medium (see column 5, line 39 – column 7, line 40). Such a computer readable medium implementing the above-described teachings of Hendricks, Imajima, and Colbath is considered a computer program product, like that recited in claim 21.

Referring to claims 14-15, Imajima teaches, while waiting for the start time of an NVOD program, displaying a message indicating the amount of time remaining until the start time, as is described above. Consequently, the video stream comprising the NVOD program is understood to comprise at least one trigger, which may be analyzed to identify the start time when the video program is be displayed. Additionally, the video program itself is considered a streamed data file, and therefore, the above-described combination of Hendricks, Imajima and Colbath is further considered to teach that the video programming content comprises a package including a data file containing the video programming content.

With respect to claim 16, the above-described combination of Hendricks, Imajima and Colbath teaches: analyzing at a computing system a first program of first video stream, the program comprising a video content identifier defining the type of video content associated with the video program; identifying at the computing system at least one viewer preference of the viewer, specifically the particular program in which the user desires, the at least one preference thus defining which type of video program content a viewer is more likely to watch than other types of video programming content; and retrieving at the computing system the first video

program in compliance with the at least one viewer preference, i.e. having the name in which the user selected. It is understood that such a process may be repeated to select other programs, and may in fact be repeated at a later time to select other programs on the same channel, i.e. stream. Accordingly, Hendricks, Imajima and Colbath are further considered to teach analyzing at the computing system a plurality of video programs deliverable upon a first video stream, each of the plurality of video programs comprising a video content identifier defining the type of video advertising content associated with the video advertisement.

In regard to claim 17, Imajima discloses that NVOD entails transmitting a program simultaneously on multiple channels, whereby the program has staggered start times over the channels (for example, see column 1, lines 45-52). In response to selecting a particular program, it is understood that the next available and nearest start time of the program is determined, and the channel displaying the program at this start time is made available to the viewer. Accordingly, it is understood that the sequence of video programs on a channel are analyzed to determine the next viewable program, and thus the above-described combination of Hendricks, Imajima, and Colbath teach: analyzing at a computing system a schedule comprising a time for the delivery of a first video program; in response to analyzing the data, identifying at the computing system a currently viewable video program on the first video stream, the currently viewable program comprising a start time and a stop time defined by at least one trigger; and identifying at the computing system the first video program from the first video stream, the first video being the next available video program after the stop time of the currently viewable video program.

As per claims 18-19, it is understood that after a first NVOD program completes, additional data is displayed to the user, such as promotions for other viewable NVOD programs, as is known in the art. Additionally, it is understood that NVOD programs, being interactive – they allow users to pause the currently-viewable program for example, may comprise an associated timer that identifies the current segment of the program. Accordingly, the above described combination of Hendricks, Imajima, and Colbath is considered to teach: analyzing at a computing system a first video program to identify a stop trigger identifying the time when the video programming content is to cease being displayed upon the display device; tracking at the computing system a plurality of other triggers to identify the amount of time remaining until the stop trigger is to be received by the processor; and upon receiving the stop trigger, transitioning at the computing system between the first video program and a second banner advertisement to display the second banner advertisement to the viewer.

In reference to claim 20, Hendricks, Imajima, and Colbath teach: identifying at a computing system a video program, which may be an advertisement, from one of a plurality of video streams to be displayed; and in response to receiving a trigger, transitioning at the computing system between a banner advertisement related to the identified program and the video program, as is described above. It is understood to that such teachings may be implemented to select another video program, i.e. a second video program. Accordingly, Hendricks, Imajima, and Colbath are further considered to teach identifying a second video program from a second video stream, and in response to receiving a trigger, transitioning between a second banner advertisement and the content of the second video program.

Regarding claim 22, Imajima teaches, while waiting for the start time of an NVOD program, displaying a "service screen" displaying promotions related to the selected NVOD program, as is described above. Such content is considered a banner advertisement having subject matter *related* to the selected NVOD program (for example, see column 17, line 31 – column 18, line 17: note that the service screen introduces "latest movies," a category from which the user selected the NVOD program). As the banner advertisement is related to the NVOD program, it is understood that it comprises some sort of identifier, in addition to its advertising content, in order to select the advertisement for display.

As per claims 23-24, Imajima teaches, while waiting for the start time of an NVOD program, displaying a message indicating the amount of time remaining until the start time, as is described above. Consequently, the video stream comprising the NVOD program is understood to comprise at least one announcement and at least one package, the announcement indicating the availability, i.e. start time, of the program, and the package comprising a data file containing the video programming content.

Referring to claim 27, Imajima discloses that NVOD entails transmitting a program simultaneously on multiple channels, whereby the program has staggered start times over the channels (for example, see column 1, lines 45-52). In response to selecting a particular program, it is understood that the next available and nearest start time of the program is determined, and the channel displaying the program at this start time is made available to the viewer. Accordingly, the above-described combination of Hendricks, Imajima, and Colbath is considered to teach: analyzing at a computing system at least one video program deliverable upon at least one video stream, each of the at least one video program comprising a video content identifier

defining the type of video advertising content associated with a video program; identifying at the computing system at least one viewer preference of the viewer, specifically the particular program in which the user desires, the at least one preference thus defining which type of video program content a viewer is more likely to watch than other types of video programming content; and retrieving at the computing system the first video advertisement in compliance with the at least one viewer preference.

In regard to claim 28, Imajima discloses that NVOD entails transmitting a program simultaneously on multiple channels, whereby the program has staggered start times over the channels (for example, see column 1, lines 45-52). In response to selecting a particular program, it is understood that the next available and nearest start time of the program is determined, and the channel displaying the program at this start time is made available to the viewer. Accordingly, it is understood that the sequence of video programs on a channel are analyzed to determine the next viewable program, and thus the above-described combination of Hendricks, Imajima, and Colbath teach: analyzing at a computing system data representative of a schedule for the delivery of a first video program; in response to analyzing the data, identifying at the computing system a currently viewable video program on the first video stream, the currently viewable program comprising a start time and a stop time defined by at least one trigger; and program code means for identifying at the computing system the first video program from the first video stream, the first video being the next available video program after the stop time of the currently viewable video program.

As per claims 29-30, it is understood that after a first NVOD program completes, additional data is displayed to the user, such as promotions for other viewable NVOD programs,

as is known in the art. Additionally, it is understood that NVOD programs, being interactive – they allow users to pause the currently-viewable program for example, may comprise an associated timer that identifies the current segment of the program. Accordingly, the above described combination of Hendricks, Imajima, and Colbath is considered to teach: analyzing at a computing system a first video program to identify a stop trigger identifying the time when the video programming content is to cease being displayed upon the display device; tracking at the computing system the first video program to identify the amount of time remaining until the stop trigger is to be received by the processor of the computing system; and upon receiving the stop trigger, transitioning at the computing system between the first video program and a second banner advertisement to display the second banner advertisement to the viewer. Likewise, Hendricks, Imajima, and Colbath are considered to teach: identifying a plurality of intermediate triggers within the first video program, the plurality of intermediate triggers defining a plurality of time segments of the first video program; and tracking the plurality of time segments to determine the number of time segments remaining to be played to the viewer.

In reference to claim 31, Hendricks, Imajima, and Colbath teach: identifying at a computing system a video program, which may be an advertisement, from one of a plurality of video streams to be displayed, the video program comprising video content and at least one trigger; and in response to receiving a trigger, transitioning at the computing system between a banner advertisement related to the identified program and the video program, as is described above. It is understood to that such teachings may be implemented to select another video program, i.e. a second video program. Accordingly, Hendricks, Imajima, and Colbath are further considered to teach identifying at the computing system a second video program from a second

video stream, and in response to receiving a trigger, transitioning between a second banner advertisement and the content of the second video program.

As per claim 32, the above-described combination of Hendricks, Imajima, and Colbath teaches: receiving at a computing system one or more video streams containing a plurality of video programs, which may comprise advertisements; retrieving at the computing system preference data from a data source, the preference data representing viewing selections of the viewer, and particularly a user-selected program; identifying at the computing system a plurality of video programs deliverable by a plurality of video streams, each video program comprising programming content, at least one trigger, and a video content identifier; analyzing at the computing system each of the plurality of video streams to identify at least one video program in compliance with the preference data based on the video content identifier of the at least one video program; generating at the computing system a display screen having an region in which the at least one video program is to be displayed; determining at the computing system that the at least one video program is not yet available for display; identifying at the computing system a first banner advertisement related to the user-selected program, and thus in compliance with the preference data; while waiting for the at least one video program to become available, displaying at the computing system the first banner advertisement within the advertisement region of the display device; analyzing at the computing system the at least one trigger to identify a begin time when the at least one video program is to be displayed; determining at the computing system that the begin time has been reached; and in response to analyzing the video content identifier of the at least one video program, analyzing the at least one trigger to identify the begin time, determining that the begin time has been reached, and determining that the at least one video

program is available for display, transitioning between the first banner advertisement and the at least one video program in order to display the at least one video program when the at least one video program is available for display.

As per claim 33, the NVOD programs of Hendricks, Imajima, and Colbath, being broadcast (for example, see column 1, lines 45-52 of Imajima), are understood to be transmitted from a remote data source.

Concerning claim 34, Imajima discloses that NVOD entails transmitting a program simultaneously on multiple channels, whereby the program has staggered start times over the channels, as is described above. In response to selecting a particular program, the next available and nearest start time of the program is determined, and the channel displaying the program at this start time is made available to the viewer, as is further described above. Accordingly it is understood that the NVOD program, which may be an advertisement, is selected based upon the prior viewing activities of the viewer, particularly the time in which the user selected to the program to watch.

Regarding claim 35, Imajima teaches, while waiting for the start time of an NVOD program, displaying a "service screen" displaying promotions related to the selected NVOD program, as is described above. Such content is considered a banner advertisement having subject matter *related* to the selected NVOD program (for example, see column 17, line 31 – column 18, line 17: note that the service screen introduces "latest movies," a category from which the user selected the NVOD program). As the banner advertisement is related to the NVOD program, it is understood that it comprises some sort of identifier, in addition to its advertising content, in order to select the advertisement for display.

In reference to claims 38 and 39, Imajima discloses that the NVOD programs may be transmitted via an MPEG stream (for example, see column 11, line 40 – column 12, line 2).

As per claims 40-41, Imajima teaches, while waiting for the start time of an NVOD program, displaying a message indicating the amount of time remaining until the start time, as is described above. Consequently, the video stream comprising the NVOD program is understood to comprise at least one trigger, which may be analyzed to identify the start time when the video program is be displayed. It is further understood that each of the video streams is analyzed to determine the video programs having an identifier, i.e. name, that complies with the user's preference data, or in other words, that has the name of the program in which the user selected.

In reference to claim 42, Hendricks, Imajima, and Colbath teach: identifying at a computing system a video program, which may be an advertisement, comprising a video content identifier in compliance with preference data; identifying at the computing system a banner advertisement having a banner content identifier in compliance with preference data; and transitioning at the computing system from the banner advertisement to the video program, as is described above. It is understood to that such teachings may be implemented to selected another NVOD program, i.e. a second NVOD program, wherein response, a second banner advertisement is selected and displayed before the second NVOD program is displayed. As such, the first video program transitions to the second banner advertisement, which in turn transitions to the second video program.

Claim 12-13, 25-26, and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Hendricks, Imajima, and Colbath, which is described above, and also

over U.S. Patent No. 6,687,906, which is attributed to Yuen et al. (and hereafter referred to as "Yuen"). As described above, Hendricks, Imajima, and Colbath present a method and computer product like that of claims 11, 21, and 32, whereby a television program is displayed on a display screen, and whereby a banner advertisement is displayed while waiting for the television program to begin. Hendricks, Imajima, and Colbath, however, do not explicitly teach that the program and banner advertisement are displayed within a box, like recited in claims 12-13, 25-26, and 36-37. As described above, Yuen presents an electronic program guide, maintained in a mass storage device (see column 2, lines 10-56), and which displays a currently selected video program, like the NVOD program of Hendricks, Imajima, and Colbath. Such a currently selected program is particularly displayed within a box (for example, see figure 2 of Yuen). Accordingly, it would have been obvious to one of ordinary skill in the art, having the teachings of Hendricks, Imajima, Colbath, and Yuen at the time the invention was made, to modify the NVOD interface taught by Hendricks, Imajima, and Colbath, such that a currently selected NVOD program can be displayed within a box of an electronic program guide, like taught by Yuen. It would have been advantageous to one of ordinary skill to utilize this combination, because such an electronic program guide allows the user to search for other programs while watching a current program, thus creating a more desirable interface, as is taught by Yuen.

Conclusion

Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blaine Basom whose telephone number is (571) 272-4044. The examiner can normally be reached on Monday through Friday, from 8:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (571) 272-4048. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

btb

11/22/2005

